



November 17, 1999

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
2014 Main, Room 501
Dallas, Texas 75201

OR99-3287

Dear Ms. Middlebrooks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129657.

The Dallas Police Department (the “department”) received a request for records pertaining to a particular internal affairs investigation relating to an automobile accident involving a city-owned vehicle. You state that most of the requested information will be released to the requestor. You seek to withhold, however, information identifying the vehicle pursuant to section 552.108 of the Government Code because “that particular vehicle is a covert vehicle used by the Narcotics Division in its operations.”

The information you seek to withhold is contained in a “Motor Vehicle Accident Report” that the department is required to file with the Texas Department of Public Safety. The release of this accident report is not governed by the provisions of the Public Information Act, but rather by article 6701d of Vernon’s Texas Civil Statutes. The Seventy-Fifth Legislature, repealed, codified, and amended V.T.C.S. article 6701d, concerning the disclosure of accident report information. Act of May 29, 1997, S.B. 1069, §13, 75th Leg., R.S. (to be codified at Transp. Code §550.065). However, a Travis County district court has issued a temporary injunction enjoining the enforcement of section 13 of SB 1069. *Texas Daily Newspaper Association v. Morales*, No. 97-08930 (345th Dist. Ct., Travis County, Tex., Aug. 29, 1997) (order granting temporary injunction). A temporary injunction preserves the status quo until the final hearing of a case on its merits. *Janus Films, Inc. v.*

City of Fort Worth, 358 S.W.2d 589 (1962). The Supreme Court has defined the status quo as “the last, actual peaceable, non-contested status that preceded the pending controversy.” *Texas v. Southwestern Bell Telephone Co.* 526 S.W.2d 526, 528 (Tex. 1975). The status quo of accident report information prior to the enactment of SB 1069 is governed by section 47 of article 6701d.¹

Section 47(b)(1) provides that:

The Department [of Public Safety] or a law enforcement agency employing a peace officer who made an accident report *is required to release a copy of the report* on request to:

. . . .

(D) a person who provides the Department or the law enforcement agency with two or more of the following:

- (i) the date of the accident;
- (ii) the name of any person involved in the accident; or
- (iii) the specific location of the accident.

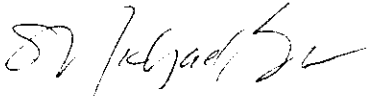
V.T.C.S. art. 6701d, § 47(b)(1) (emphasis added). Under this provision, a law enforcement agency “is required to release” a copy of an accident report to a person who provides the law enforcement agency with two or more pieces of information specified by the statute. *Id.* In this instance, it appears to this office that the requestor has not provided the department with the required information. Thus, the department must withhold the accident report in its entirety pursuant to section 47(b)(1)(D) of article 6701d, V.T.C.S.

¹Although the Seventy-Fourth Legislature repealed and codified article 6701d as part of the Transportation Code, the legislature did not intend a substantive change of the law but merely a recodification of existing law. Act of May 1, 1995, 74th Leg., R.S., ch. 165, §§ 24, 25 1995 Tex. Gen. Laws 1025, 1870-71. Furthermore, the Seventy-Fourth Legislature, without reference to the repeal and codification of V.T.C.S. article 6701d, amended section 47 of article 6701d, V.T.C.S., relating to the disclosure of accident reports. Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Gen. Laws 4413, 4414. Because the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code, the amendment is preserved and given effect as part of the code provision. Gov’t Code § 311.031(c). Thus, the amendment of section 47 of article 6701d, V.T.C.S. is the existing law regarding the availability of accident report information, and may be found following section 550.065 of the Transportation Code. *See also* Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Gen. Laws 4413, 4414.

The information identifying the city-owned vehicle is also contained in an internal "Accident Investigator's Report." As noted above, you contend that all information identifying the city-owned vehicle is protected from public disclosure pursuant to section 552.108. Section 552.108(b)(1) provides an exception for an internal record of a law enforcement agency that is maintained for internal use in matters relating to law enforcement or prosecution if "release of the internal record or notation would interfere with law enforcement or prosecution." We have reviewed your arguments for withholding the information at issue and conclude that you have established how the release of the information pertaining to undercover vehicles would interfere with law enforcement. You may, therefore, withhold the information pertaining to undercover vehicles from disclosure at this time² under section 552.108(b)(1).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/RWP/ch

Ref: ID# 129657

Encl. Submitted documents

cc: Mr. Joe Munoz
KXAS NBC-5
3100 McKinnon Avenue, Suite 850
Dallas, Texas 75201
(w/o enclosures)

²We note, however, that if the requestor or any other individual provides the department with the information required under section 47 of article 6701d, the department must release the accident report in its entirety. In such event, there would be no rationale for withholding the information at issue here from the "Accident Investigator's Report."